

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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MARK FONTANA,

Plaintiff,

-against-

ST. MARY ROMAN CATHOLIC CHURCH,  
ROMAN CATHOLIC DIOCESE OF ROCKVILLE  
CENTRE, JOHN DOE and JANE DOE, RICHARD  
ROE and JANE ROE, priests, clergy and administrators  
whose names are unknown to the Plaintiff,

Defendants.

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To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
September 26, 2019



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Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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MARK FONTANA,

Plaintiff,

Index No.  
Date Filed:

-against-

ST. MARY ROMAN CATHOLIC CHURCH,  
ROMAN CATHOLIC DIOCESE OF ROCKVILLE  
CENTRE, JOHN DOE and JANE DOE, RICHARD  
ROE and JANE ROE, priests, clergy and administrators  
whose names are unknown to the Plaintiff,**VERIFIED COMPLAINT**

Defendants.

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Plaintiff, Mark Fontana, by his attorney, MICHAEL G. DOWD, complaining of  
Defendants, hereby alleges the following:**JURISDICTION AND VENUE**

1. This action is timely commenced pursuant to the New York State Child Victims  
Act, dated February 14, 2019, and CPLR § 214-g.
2. This Court has jurisdiction pursuant to CPLR § 301 as Defendants' principal  
place of business is in New York and because much of the unlawful conduct  
complained of herein occurred in New York.
3. Venue is proper pursuant to CPLR § 503 because Nassau County is the principal  
place of business of Defendants. In addition, many of the events giving rise to  
this action occurred in Nassau County.

**AS AND FOR A FIRST CAUSE OF ACTION:**  
**NEGLIGENT SUPERVISION**

4. The Plaintiff, Mark Fontana (hereinafter "Plaintiff") was born on June 17, 1966. He is a resident of the State of Florida.
5. Plaintiff was a Roman Catholic and was a parishioner at Defendant ST. MARY ROMAN CATHOLIC CHURCH (hereinafter "ST. MARY"), which is a parish within the Defendant ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE. ST. MARY is located in East Islip, New York.
6. Plaintiff was baptized, confirmed, attended mass, and received his sacraments through the Roman Catholic Church.
7. Upon information and belief, at all times mentioned herein, the ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE (hereinafter "DIOCESE") was and is a not-for-profit religious corporation organized and existing around and under by virtue of the laws of the State of New York. Its principal headquarters are located in Rockville Centre, New York, which is in Nassau County.
8. Upon information and belief, John Barres (hereinafter "Barres") is currently the Roman Catholic Bishop of the DIOCESE.
9. Upon information and belief, Barres is the Chief Executive Officer of all parishes and parish schools in the DIOCESE.
10. Upon information and belief, all of Barres' predecessor(s) were the Chief Executive Officers of all parishes and parish schools in the DIOCESE and as part of said responsibilities assigned the priests to work in the parishes, including Basil Peter Congro (hereinafter "Congro"). This includes those Bishops who assigned

Congro to his parish positions.

11. Upon information and belief, at all times mentioned herein, Barres and the above-referenced predecessor Bishops in the Office of the Bishop, along with Defendant DIOCESE, created the policies and procedures to be followed by priests within the DIOCESE. The Office of the Bishop and Defendant DIOCESE were responsible for investigating complaints against its parish clergy. In this capacity, the Office of the Bishop either directly or through Diocesan officials appointed by them, established policies and procedures by which complaints of sexual abuse against parish clergy, priests, and staff were to be dealt with and investigated by the DIOCESE.
12. Upon information and belief, at all times mentioned herein, the Office of the Bishop was also responsible for removing and/or suspending parish clergy and priests from their duties.
13. Upon information and belief, at all times mentioned herein, Congro was a priest at Defendant ST. MARY having been assigned and otherwise authorized to work there by the Office of the Bishop.
14. Upon information and belief, Defendant ST. MARY is a Roman Catholic Church within the DIOCESE.
15. Sometime after Plaintiff became a member of the parish, Congro began a pattern of grooming Plaintiff for the purpose of sexually abusing him. This grooming included, but was not limited to, giving Plaintiff special attention, mentorship, and counseling related to Plaintiff's personal issues.

16. Congro's abuse of Plaintiff began in approximately 1981 and continued through 1989. The abuse included, but was not limited to, Congro groping and fondling Plaintiff's genitals, Congro masturbating Plaintiff's genitals, Congro exposing his genitals to Plaintiff, Congro orally copulating Plaintiff, and Plaintiff orally copulating Congro. The abuse occurred in the rectory of Defendant ST. MARY and Congro's vehicle. Plaintiff estimates these acts of sexual abuse occurred between 50 and 100 occasions prior to his 18<sup>th</sup> birthday.
17. Due to the position and control that Congro exercised over Plaintiff, the abuse continued after Plaintiff turned 18 years old. In or around the summer of 1984, Congro invited Plaintiff to visit him in Sicily. Congro continued to abuse Plaintiff during this visit. The abuse included, but was not limited to, Congro anally penetrating Plaintiff, Congro humping Plaintiff's body, and Plaintiff orally copulating Congro.
18. In or around 1991 and again in 2002, Plaintiff informed representatives of Defendant DIOCESE about the sexual abuse Congro subjected him to.
19. Upon information and belief, after Plaintiff informed Defendant DIOCESE about the sexual abuse by Congro in or around 2002, Defendant DIOCESE referred the matter to the Diocese of Charleston where Congro was then assigned.
20. In 2002, 2003, 2006 and again in 2007, Plaintiff provided testimony in connection with the Diocesan Proceedings against Congro in the Diocese of Charleston.
21. Upon information and belief, Plaintiff was informed by the investigator who had interviewed him for the Diocese of Charleston that following his testimony, Bishop Baker referred the matter to Rome for the priest's laicization.

22. Upon information and belief, sometime in 2019 a list of those credibly accused of child sexual abuse was released by the Diocese of Charleston. Congro was included on that list. Congro's status on that list is the following: "Placed on administrative leave 09/23/2002 and not allowed to function as a Catholic priest."
23. Upon information and belief, at all times mentioned herein, Defendant DIOCESE knew or should have known that children such as Plaintiff were present in rectories and sacristies for a variety of purposes, including counseling and work.
24. Upon information and belief, Plaintiff was taught and otherwise informed by Defendants DIOCESE and ST. MARY by word and deed that he should obey, trust, and respect the DIOCESE, ST. MARY, and Congro.
25. Upon information and belief, since at least 1950 through present, Defendants DIOCESE and ST. MARY knew the risk of sexual abuse of minor parishioners by priests and other staff working in the DIOCESE.
26. Upon information and belief, at all times mentioned herein, Defendants DIOCESE and ST. MARY knew that minors sexually abused in the Catholic Church would suffer psychological and emotional injuries, as well as other damages.
27. Upon information and belief, at all times mentioned herein, Defendant DIOCESE aided and abetted the concealment of criminal conduct by failing and refusing to report allegations of child sexual abuse to appropriate New York civil authorities.
28. Upon information and belief, at the time of the acts alleged herein, Congro was an employee of and acting as an agent of Defendants DIOCESE and ST. MARY.

29. Upon information and belief, Defendants DIOCESE and ST. MARY had a duty to protect Plaintiff as a minor parishioner from Congro's criminal sexual acts.
30. Upon information and belief, Defendants DIOCESE and ST. MARY failed to adequately and completely supervise Congro, and as a result of this failure and negligence, proximately caused Plaintiff to be sexually abused by Congro.
31. The aforementioned occurrences of sexual abuse were caused by the negligence, carelessness, recklessness, and the willful, wanton, reckless and grossly negligent conduct of Defendants DIOCESE and ST. MARY and their agents, servants, and/or employees, in failing to properly and adequately supervise the conduct of Congro as it related to Plaintiff.
32. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
33. That by reason of the foregoing, Defendants DIOCESE and ST. MARY are also liable to Plaintiff for punitive and exemplary damages.
34. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7)

and 1602(11).

35. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION:**

**NEGLIGENT FAILURE TO WARN**

36. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.
37. Upon information and belief, prior to and at all times herein mentioned, Defendants DIOCESE and ST. MARY and their agents, servants, and employees, knew or should have known that Congro violated DIOCESE and ST. MARY's relevant rules, regulations and protocols prohibiting priests like Congro from sexually abusing and otherwise harming minor parishioners, including Plaintiff.
38. The Defendants DIOCESE and ST. MARY and their agents, servants, and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to warn Plaintiff that the failure of Congro to abide by DIOCESE and ST. MARY's rules, regulations and protocols regarding prohibitions on employees being alone with minor parishioners put Plaintiff at risk for being sexually abused by Congro.
39. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological

damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.

40. That by reason of the foregoing, Defendants DIOCESE and ST. MARY are also liable to Plaintiff for punitive and exemplary damages.
41. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
42. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION:**

**NEGLIGENCE FAILURE TO PROVIDE A SAFE AND SECURE ENVIRONMENT**

43. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.
44. The Defendants DIOCESE and ST. MARY assumed a duty to protect the safety and welfare of Plaintiff as more fully set forth above, when Plaintiff participated as a parishioner in ST. MARY related activities such as attending the parish school, confession, and counseling. This duty imposed upon said Defendants, the duty to provide a reasonably safe and secure environment for Plaintiff while he was participating in parish programs.

45. When Plaintiff was in said Defendants' care, said Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
46. Defendants DIOCESE and ST. MARY and their agents and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to provide a safe and secure environment for Plaintiff while he participated as a minor in parish programs and as such was sexually abused by Congro.
47. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
48. That by reason of the foregoing, Defendants DIOCESE and ST. MARY are also liable to Plaintiff for punitive and exemplary damages.
49. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).

50. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, the Plaintiff demands judgment against the Defendants, together with compensatory and punitive damages, and the interest, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York  
September 26, 2019



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SWEENEY, REICH & BOLZ, LLP  
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Attorneys for Plaintiff

**VERIFICATION BY ATTORNEY**

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is an attorney for the Plaintiff in the above-entitled action with offices located at 600 Third Ave, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York  
September 26, 2019



MICHAEL G. DOWD  
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